

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WISCONSIN**

Court Minutes and Order

HEARING DATE: February 12, 2021  
JUDGE: Brett H. Ludwig  
CASE NO.: 20-cv-00843-bhl  
CASE NAME: Heuss v. Caliber Home Loans Inc et al  
MATTER: Status Conference  
APPEARANCES: Thomas Napierala, Attorney for Plaintiff  
Douglas Sargent, Attorney for Caliber Home Loans Inc and  
PHEAA (FedLoan Serv.)  
Patrick Newman, Attorney for First Premier Bank  
Alyssa Johnson, Attorney for Franklin Collection Service  
Andrew Cunningham, Attorney for Transworld Systems  
Ke Liu, Attorney for Capital One Financial Corporation  
TIME: 11:02 a.m. – 11:21 a.m.  
COURTROOM DEPUTY: Melissa P.  
AUDIO OF THIS HEARING IS AT ECF NO. 110

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Counsel for the Plaintiff provided additional background related to the allegations that discrepancies on the Plaintiff's credit reports violated the Fair Credit Reporting Act. He confirmed that the Plaintiff is not alleging any actual harm or concrete injury and was asserting only alleged technical violations of the Act's procedural requirements. Counsel for defendants made additional statements in support of their motions to dismiss.

The Court granted Plaintiff's Unopposed Motion for Voluntary Dismissal with prejudice of First Premier Bank (ECF No. 107) and dismissed as moot First Premier Bank's Motion to Dismiss (ECF No. 101). Based on its dismissal from the case, Counsel for First Premier Bank orally WITHDREW its Motion for Sanctions (ECF No. 52).

The Court took the remaining defendant motions to dismiss (ECF Nos. 86, 87, 96, 98) under advisement.

In the January 20, 2021 Status Conference Order the Court directed Plaintiff's counsel to file a short brief explaining Plaintiff's Article III standing, in light of *Spokeo, Inc. v. Robins*, 136 S. Ct. 1540, 1549 (2016), and recent Seventh Circuit decisions recognizing that a complaint must clearly alleges facts demonstrating the plaintiff has (1) suffered an injury in fact, (2) that is fairly traceable to the challenged conduct of the defendant, and (3) that is likely to be redressed by a favorable judicial decision. *See Nettles v. Midland Funding LLC*, 983 F.3d 896 (7th Cir. 2020);

*Gunn v. Thrasher, Buschmann & Voelkel, P.C.*, 982 F.3d 1069 (7th Cir. 2020); *Brunett v. Convergent Outsourcing, Inc.*, 982 F.3d 1067 (7th Cir. 2020); *Larkin v. Finance Sys. of Green Bay, Inc.*, 982 F.3d 1060 (7th Cir. 2020); *see also Crabtree v. Experian Info. Sols.*, 948 F.3d 872, 879 (7th Cir. 2020) (no standing where alleged potential injury under FCRA was too speculative and remote). Counsel explained that due to a death in co-counsel's family, plaintiff failed to file the court-ordered brief and asked for additional time to do so. The Court granted Plaintiff's counsel's oral motion to extend the deadline to file a brief.

Accordingly, IT IS ORDERED that no later than **February 16, 2021** counsel for Plaintiff shall file a brief explaining Plaintiff's Article III standing. Defendants may file optional response briefs no later than **March 2, 2021**.

IT IS FURTHER ORDERED that Plaintiff's Unopposed Motion for Voluntary Dismissal with prejudice of First Premier Bank (ECF No. 107) is GRANTED, and First Premier Bank's Motion to Dismiss (ECF No. 101) is DENIED as moot.

IT IS FURTHER ORDERED that, the Court having entered an Order on October 30, 2020 granting the Defendants' Motions to Dismiss and allowing the Plaintiff an opportunity to amend the Complaint, the following motions are DENIED, as moot: Caliber Home Loans' Motion for Entry of Judgment (ECF No. 56); First Premier Bank's Motion for Entry of Judgment (ECF No. 57); Plaintiff's Motion (Brief) to Amend Complaint (ECF No. 63); Plaintiff's Motion to Extend Time to Respond to First Premier Bank's Motion to Dismiss (ECF No. 66); Plaintiff's Amended Motion to Extend Time to Respond to First Premier Bank's Motion to Dismiss (ECF No. 67); and Plaintiff's Motion to Extend Time to Respond to Caliber Home Loans' Motion to Dismiss (ECF No. 69).

Dated at Milwaukee, Wisconsin this 12th day of February, 2021.

s/ Brett H. Ludwig  
BRETT H. LUDWIG  
United States District Judge